

Members

Sen. Thomas Wyss, Chairperson
Sen. John Waterman
Sen. Ryan Mishler
Sen. James Arnold
Sen. Robert Deig
Sen. James Lewis
Rep. Clyde Kersey, Vice-Chairperson
Rep. Dale Grubb
Rep. Vern Tincher
Rep. Cleo Duncan
Rep. James Buck
Rep. William Davis



INTERIM COMMITTEE ON TRANSPORTATION MATTERS

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Authority: Legislative Council Resolution 07-01

MEETING MINUTES¹

Meeting Date: October 29, 2007
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Thomas Wyss, Chairperson; Sen. John Waterman;
Sen. James Arnold; Sen. James Lewis; Rep. Clyde Kersey,
Vice-Chairperson; Rep. Dale Grubb; Rep. Vern Tincher;
Rep. Cleo Duncan; Rep. William Davis.

Members Absent: Sen. Ryan Mishler; Sen. Robert Deig; Rep. James Buck.

The Chair, Senator Wyss, called the meeting to order at 1:15 p.m. Committee members and staff who were present introduced themselves. Chris Kiefer, Indiana Department of Transportation distributed to Committee Members a graph that illustrates the pavement damage done by gross weight of a vehicle.²

The Chair opened Committee discussion about the topic of accidents involving commercial motor vehicles and summarized his view of the information presented to the Committee. The Chair discussed the relation between driver use of drugs or alcohol and accidents and stated his view that prosecutors should be better informed about the

1. Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

2. The graph, titled "Pavement Damage" is Exhibit 1.

constraints federal law places on diversion programs for individuals who violate commercial motor vehicle laws.

Discussion of PD 3306 -- Motor Vehicle Violations Report³

Representative Tincher mentioned that some Committee members visited the weigh station after the Committee's September meeting in Terre Haute and discussed the need for increased funding for additional inspectors so the scales can remain open longer than they currently do. Representative Duncan asked how many additional inspectors were needed and whether retired state police officers could do the job. There was Committee discussion concerning whether the individuals who staff the weigh facilities must be law enforcement officers. The discussion distinguished between those duties that were law enforcement related (for example, issuing citations and making arrests) and the tasks that are ministerial or technical. Senator Wyss summarized this part of the discussion saying that the goal is to use the weigh stations to the greatest extent possible.

Representative Tincher asked if the draft contained penalties if prosecutors did not make the required reports. Senator Wyss said he thought that local attention, particularly media attention, would assure that prosecutors would report as required. Steve Johnson, representing the Indiana Prosecuting Attorneys Council, discussed how the recently enacted electronic ticket system might work with generating the required reports. Mr. Johnson also discussed how the requirements in the draft might conflict with other reports currently generated. He also briefly discussed the practice of diversion of prosecutions in cases involving commercial driver's licenses.

A motion was made and seconded that the Committee recommend enactment of PD 3306 as presented. The motion was adopted by a voice vote, a quorum being present.

Discussion of PD 3397 -- Penalties for Overweight Vehicles⁴

Representative Grubb and the Chair discussed what responsibilities local law enforcement agencies would have to enforce commercial motor vehicle laws and whether a monetary incentive to do so would divert local law enforcement away from local problems. Senator Arnold said that county sheriffs do not have the staff to enforce laws now being enforced by the State Police. The Chair noted that PD 3397 did not mandate local law enforcement to do anything; the draft merely shared revenue with local law enforcement agencies that see a need to enforce commercial motor vehicle laws in their respective communities.

Representative Davis, noting that the Committee has discussed the effect trucks have on the conditions of roads, questioned whether that focus was within the Committee's charge to study accidents involving commercial motor vehicles. He said that the General Assembly has increased truck speed and weight limits and therefore shares responsibility for any deterioration in highways due to overweight or speeding trucks.

Representative Tincher discussed the advantages in keeping the weigh stations open.

3. PD 3306 is Exhibit 2.

4. PD 3397 is Exhibit 4.

Major Thomas Melville, Indiana State Police, said that between 53% and 75% of all fatal highway accidents are caused by automobiles. In response to Committee questions, Major Melville said that a portable scale costs approximately \$3,200. He also discussed staffing of weigh stations and said that personnel check for equipment problems as well as the weight of a truck. Major Melville said that observations of driver behavior also lead to discovery of many problems. In response to a question from Representative Duncan, Major Melville agreed that truckers often use State Road 1 to avoid the scales on the interstate highways. Senator Waterman said that trucking companies often pressure drivers to stay on schedule.

The Chair suggested that the Committee's Final Report include a recommendation for increased funding and additional staff for the Commercial Vehicle Enforcement Division of the Indiana State Police to enhance road safety and maintenance. Without an objection from the Committee, staff was instructed to work with the Chair, the Vice Chair and Representative Tinchler to draft language for this recommendation.

A motion was made and seconded that the Committee recommend enactment of PD 3397 as presented. The vote on the motion was 7-2;⁵ the motion was adopted.

Discussion of PD 3346 -- Commercial's Driver's License Violations⁶

The Chair and staff summarized the provisions of PD 3346 that would create an agency to adjudicate alleged violations of commercial motor vehicle laws that occur after June 30, 2009. During the discussion, it was explained that a "commercial motor vehicle violations board" would have original jurisdiction to adjudicate violations of commercial motor vehicle laws but could waive jurisdiction in its discretion to the trial courts. If the alleged violation is a felony or if the respondent demanded a jury trial, the board would be required to waive jurisdiction to the courts. The discussion also revealed that the draft would require the board to establish a "cafeteria court" for "efficient disposition of admitted violations".⁷

A motion was made and seconded that the Committee recommend enactment of PD 3346 as presented. The vote on the motion was 5-3,⁸ but the motion was not adopted.⁹

5. Those voting in favor of the motion were Representatives Grubb, Kersey, and Tinchler and Senators Arnold, Lewis, Waterman, and Wyss. Those voting in opposition were Representatives Davis and Duncan.

6. PD 3346 is Exhibit 3.

7. See PD 3346, page 3, lines 11 through 12.

8. Those voting in favor of the motion were Representatives Duncan, Kersey, and Tinchler and Senators Arnold and Wyss. Those voting in opposition were Representative Davis and Senators Lewis and Waterman.

9. Legislative Council Resolution 07-02, SECTION 11(a) provides:

"Unless there are specific contrary provisions in a statute, a study committee may not recommend a final bill draft, or a final report, unless that draft or report has been approved by a majority of the voting members appointed to serve on that committee."

The Committee has twelve (12) voting members. There being no contrary statutory provisions, the affirmative vote of seven (7) members is necessary to recommend a draft.

Draft Final Report¹⁰

A motion was made and seconded to approve the Draft Final Report with inclusion of a recommendation regarding funding of the Commercial Vehicle Enforcement Division of the Indiana State Police¹¹ and to reflect the Committee's action at this meeting. The motion was adopted by consent of the Committee, a quorum being present.

Adjournment

The Chair adjourned the meeting at approximately 2:46 p.m.

10. The Draft Final Report is Exhibit 5.

11. Staff was instructed to draft the statement of this recommendation and include it, after review by the Chair, the Vice Chair, and Representative Tincher. The reader is directed to the Final Report which may be obtained as indicated in footnote 1.